

**Notice of Allowability**

Application No.

09/903,329

Examiner

Stephen M. D'Agosta

Applicant(s)

BATES ET AL.

Art Unit

2683

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 3-29-05.
2. ☒ The allowed claim(s) is/are 12,36 and 46.
3. ☒ The drawings filed on 11 July 2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 3-05
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_.
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

The applicant's amendment filed 3-29-05 overcomes the primary examiner's prior art rejection. **Hence claims 12, 36 and 46 are allowed.**

### ***Allowable Subject Matter***

The following is an examiner's statement of reasons for allowance:

1. The independent claims are allowed based on their highly specific designs which are novel in the examiner's opinion.
2. The primary examiner believes the novel material is:  
"determining a common meeting point for the first and second users;  
notifying the first user of the common meeting point on the first portable communication device; and  
notifying the second user of the common meeting point on the second portable communication device.
3. The applicant's IDS provided a web site that the primary examiner visited. This site, while determining positions of users who are proximate, did not appear to disclose determining a common meeting point for the two users, but rather just informed the users that they were near each other.
4. The primary examiner further searched the patent database and found Drutman US 6,618,593 which discloses determining the location of two users and a common meeting point but this prior art recites the need for "preference or profile

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information" which differs from the applicant's claims. The examiner notes that Drutman uses the preference/profile information to determine "matches" while the applicant's system does not.

Drutman discloses "In another commercial application of the present invention, an automated scheduling function is implemented to determine a common meeting place for a plurality of attendees. In this application, a plurality of mobile communications devices, all being identifiable subscribers of a particular group, are distributed within a particular distance of one another. The central server may be provided with a time at which the plurality of users wish to meet, and based upon the instantaneous location data of the plurality of users as provided to the central server by their mobile communications devices, the central server 25 may select a convenient meeting place from a predetermined list of available meeting places stored within its memory. In this commercial embodiment, the profile data for each of the mobile communications devices would include, for example, a subscription group identifier that identifies those mobile communications devices as members of the meeting group. Provided each of the mobile communications devices have activated their receive/transmit status, the central server 25 transmits a message to each of the mobile communications devices prior to the pre-arranged meeting time

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indicating the time and the location of the meeting. In a variation of this commercial embodiment, the potential meeting attendees may be provided with a menu of possible meeting locations by the central server 25 from which each responds by selecting a preferred meeting location. The meeting location selected from each mobile communications device is then transmitted to the central server which selects one location based upon a selection algorithm or set of heuristics. The central server then transmits the selected meeting location to all of the attendees' mobile communications devices." (C11, L9-39).

The underlined passages above emphasize the differences as well.

5. The primary examiner also puts forth Hendry, Ohler and Esch, but these patents do not read on the applicant's claim either.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 571-272-7862. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen D'Agosta  
PRIMARY EXAMINER  
4-12-05

